United Nations A/73/422

General Assembly

Distr.: General
11 October 2018

Original: English

Seventy-third session
Agenda items 117 (h) and (i)

Appointments to fill vacancies in subsidiary organs and other appointments:

Appointment of the judges of the United Nations Dispute Tribunal

Appointment of the judges of the United Nations Appeals Tribunal

Appointment of judges of the United Nations Appeals Tribunal and of the United Nations Dispute Tribunal

Memorandum by the Secretary-General

I. Introduction

1. By its resolution 62/228 on administration of justice at the United Nations, the General Assembly decided, among other matters, to establish a two-tier formal system of administration of justice, comprising a first-instance United Nations Dispute Tribunal and an appellate-instance United Nations Appeals Tribunal.

2. In the same resolution, the General Assembly decided that the judges of the Tribunals were to be appointed by the Assembly on the recommendation of the Internal Justice Council.

3. The statutes of the Tribunals were adopted by the General Assembly in its resolution 63/253, and the Tribunals became operational on 1 July 2009. The statute of the Appeals Tribunal was subsequently amended in resolutions 66/237, 69/203, 70/112 and 71/266. The statute of the Dispute Tribunal was subsequently amended in resolutions 69/203, 70/112 and 71/266.

18-16994 (E) 181018

Please recycle

4. The Appeals Tribunal is composed of seven judges. The following six judges are currently serving on the Appeals Tribunal:

John Raymond Murphy, President (South Africa)**

Dimitrios Raikos, First Vice-President (Greece)**

Sabine Knierim, Second Vice-President (Germany)**

Richard Lussick (Samoa)*

Deborah Thomas-Felix (Trinidad and Tobago)*

Martha Halfeld Furtado de Mendonça Schmidt (Brazil)**

5. One judicial position on the Appeals Tribunal is presently vacant following the resignation of Judge Rosalyn M. Chapman (United States of America) effective 3 November 2017. The unexpired remainder of Judge Chapman's seven-year term ends on 30 June 2019. Accordingly, there is a need to appoint a judge to fill that vacancy. In connection to the vacancy, the Internal Justice Council in paragraph 32 of its report (A/73/203) recommended that the Assembly appoint a judge to fill the vacancy created by the expiration of Judge Chapman's term, effective 1 July 2019, for the full period of a seven-year term.

6. In addition, effective 30 June 2019, the terms of office of two Appeals Tribunal Judges will expire: Judge Lussick and Judge Thomas-Felix. Accordingly, there is a need to appoint two judges to the United Nations Appeals Tribunal for a term of seven years starting on 1 July 2019.

7. The following eight judges are currently serving on the United Nations Dispute Tribunal:

Nkemdilim Amelia Izuako, President and ad litem judge based in Nairobi (Nigeria)***

Teresa Maria da Silva Bravo, full-time judge based in Geneva (Portugal)**

Rowan Downing, ad litem judge based in Geneva (Australia)***

Memooda Ebrahim-Carstens, full-time judge based in New York (Botswana)*

Alessandra Greceanu, ad litem judge based in New York (Romania)***

Goolam Hoosen Kader Meeran, half-time judge (United Kingdom of Great Britain and Northern Ireland)*

Alexander W. Hunter Jr., half-time judge (United States of America)**

Agnieszka Klonowiecka-Milart, full-time judge based in Nairobi (Poland)**

8. Effective 30 June 2019, the terms of office of two Dispute Tribunal judges will expire: Judge Ebrahim-Carstens and Judge Meeran. Accordingly, there is a need to appoint one full-time judge based in New York and one half-time judge to the United Nations Dispute Tribunal for a term of seven years starting on 1 July 2019.

* Term ends on 30 June 2019

** Term ends on 30 June 2023

*** The ad litem positions expire on 31 December 2018. This issue is being considered under agenda item 147.

II. Internal Justice Council

9. In its report (A/73/203), the Council recommended to the General Assembly five candidates for the three positions in the Appeals Tribunal and two candidates for each of the two positions in the Dispute Tribunal. The names of those candidates are indicated in the report and reproduced in paragraphs 12 to 14 of the present memorandum.

10. A full public process was instituted, in accordance with paragraph 45 of General Assembly resolution 65/251, to identify suitable candidates for presentation to the Assembly. The Council received 182 applications from 55 countries and, following a review of all applications, invited 53 candidates to take a common written examination to test their legal expertise and drafting ability. On the basis of the written test, the Council selected 16 applicants for interviews.

11. As it had done for the previous rounds of judicial appointments, the Council approached the relevant national bar or judicial associations for confirmation of the integrity of each recommended candidate. Written references were also requested of each candidate.

12. The five candidates recommended by the Council for appointment to the Appeals Tribunal, in alphabetical order, are:

(a) Graeme Colgan (New Zealand);

(b) Gary Donahoe (United States of America);

(c) Cécile Isidoro (France);

(d) Jean-François Neven (Belgium);

(e) Kanwaldeep Sandhu (Canada and India).

13. The two candidates recommended by the Council for full-time appointment to the Dispute Tribunal in New York, in alphabetical order, are:

(a) Joëlle Adda (France);

(b) Ole Jan van Leeuwen (Netherlands).

14. The two candidates recommended by the Council for half-time appointment to the Dispute Tribunal, in alphabetical order, are:

(a) Francesco Buffa (Italy);

(b) Angela Henke (Germany).

15. The candidates' curricula vitae are provided in annexes II and III to the Council's report (A/73/203).

III. Procedure in the General Assembly

16. The appointment of the judges of the Appeals Tribunal will be made in accordance with:

(a) The statute of the Appeals Tribunal;

(b) The rules of procedure of the General Assembly;

(c) The recommendations of the Internal Justice Council as set out in paragraph 35 of its report to the General Assembly (A/73/203).

17. The appointment of judges to the Appeals Tribunal is addressed in article 3 of its statute, which states, in relevant part, as follows:

"1. The Appeals Tribunal shall be composed of seven judges.

"2. The judges shall be appointed by the General Assembly on the recommendation of the Internal Justice Council in accordance with General Assembly resolution 62/228. No two judges shall be of the same nationality. Due regard shall be given to geographical distribution and gender balance.

"3. To be eligible for appointment as a judge, a person shall:

"(a) Be of high moral character and impartial;

"(b) Possess at least 15 years of aggregate judicial experience in the field of administrative law, employment law or the equivalent within one or more national or international jurisdictions. Relevant academic experience, when combined with practical experience in arbitration or the equivalent, may be taken into account towards 5 of the qualifying 15 years;

"(c) Be fluent, both orally and in writing, in at least one of the working languages of the Appeals Tribunal.

"4. A judge of the Appeals Tribunal shall be appointed for one non-renewable term of seven years. As a transitional measure, three of the judges initially appointed, to be determined by drawing of lots, shall serve three years and may be reappointed to the same Appeals Tribunal for a further non-renewable term of seven years. A current or former judge of the Dispute Tribunal shall not be eligible to serve in the Appeals Tribunal.

"5. A judge of the Appeals Tribunal appointed to replace a judge whose term of office has not expired shall hold office for the remainder of his or her predecessor's term and may be reappointed for one non-renewable term of seven years, provided that the unexpired term is less than three years."

18. The appointment of judges to the Dispute Tribunal will be made in accordance with:

(a) The statute of the Dispute Tribunal;

(b) The rules of procedure of the General Assembly;

(c) The recommendations of the Internal Justice Council as set out in paragraphs 36 and 37 of its report to the General Assembly (A/73/203).

19. The appointment of judges to the Dispute Tribunal is addressed in article 4 of its statute, which states, in relevant part, as follows:

"1. The Dispute Tribunal shall be composed of three full-time judges and two half-time judges.

"2. The judges shall be appointed by the General Assembly on the recommendation of the Internal Justice Council in accordance with Assembly resolution 62/228. No two judges shall be of the same nationality. Due regard shall be given to geographical distribution and gender balance.

"3. To be eligible for appointment as a judge, a person shall:

"(a) Be of high moral character and impartial;

"(b) Possess at least 10 years of judicial experience in the field of administrative law, or the equivalent within one or more national jurisdictions.

"(c) Be fluent, both orally and in writing, in English or French.

"4. A judge of the Dispute Tribunal shall be appointed for one non-renewable term of seven years. As a transitional measure, two of the judges (one full-time judge and one half-time judge) initially appointed, to be determined by drawing of lots, shall serve three years and may be reappointed to the same Dispute Tribunal for a further non-renewable term of seven years. A current or former judge of the United Nations Appeals Tribunal shall not be eligible to serve in the Dispute Tribunal."

20. It is proposed that the General Assembly proceed to appoint the judges through an election, held pursuant to the rules of procedure of the Assembly, bearing in mind paragraph 58 of Assembly resolution 63/253, in which the Assembly invited Member States, when electing judges to the Tribunals, to take due consideration of geographical distribution and gender balance.

21. Only those candidates recommended by the Internal Justice Council whose names appear in paragraphs 12 to 14 of the present memorandum are eligible for election. The electors in the General Assembly will indicate the candidates for whom they wish to vote by placing a cross against each name on the ballot papers. Each elector may vote for no more than the number of judicial positions in the Appeals Tribunal and the Dispute Tribunal to be filled at the present election.

22. Those candidates who obtain the highest number of votes, and a majority of votes in the General Assembly of the members present and voting, will be considered to be elected and thereby appointed by the Assembly to the Tribunals.

23. Balloting shall continue in accordance with the rules of procedure until as many candidates as are required to fill the elective positions in the Appeals and Dispute Tribunals have obtained, in one or more ballots, a majority of votes of the members present and voting.